

01-07-02 A

Docket # PF-0229-2 CON

01/04/02  
JC962 U.S. PTO

"Express Mail" mailing label number EL 856 173 658 US deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated and is addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on December 10, 1998 January 4, 2002

By: Nancy Ramos

Printed: Nancy Ramos

J1046 U.S. PTO  
10/038302  
01/04/02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)

Commissioner for Patents  
Box Patent Application  
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **CONTINUATION** application under 37 CFR 1.53(b) of pending prior application Serial Number 09/208,619, filed December 8, 1998, which is a divisional application of U.S. application Serial Number 08/812,645, filed March 7, 1997, issued December 29, 1998, as U.S. Patent No. 5,854,414, both entitled NOVEL HUMAN MITOCHONDRIAL MEMBRANE PROTEIN.

1.  Enclosed is a specification corresponding to the prior application, U.S. application Serial Number 09/208,619, filed December 8, 1998, which is a divisional application of U.S. application Serial Number 08/812,645, filed March 7, 1997, issued December 29, 1998, as U.S. Patent No. 5,854,414, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
  
2.  With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant continuation application is identical with the computer readable form filed with Serial No. 08/812,645, filed March 7, 1997, to which priority is claimed. In accordance with 37 C.F.R. §1.821(e), please use the computer readable form filed with U.S. application Serial No. 08/812,645 as the computer readable form for the instant continuation application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant continuation application.

3.  Cancel in this application original claims 21-57 before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during prosecution of this application or a continuation or divisional application. Applicants expressly do not disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4.  The inventor(s) of the invention being claimed in this application is (are): Jennifer L. Hillman and Surya K. Goli.

5.  In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on June 27, 1997, is enclosed.

6.  Amend the specification by inserting after the title: "This application is a continuation application of U.S. application serial number 08/812,645, filed March 7, 1997, all of which applications and patents are hereby incorporated herein by reference."

7.  The filing fee is calculated below:

Claims	Number Filed	Minus	Number Extra	Other Than Small Entity Rate	Basic Fee
Total Claims	20	-20	0	x \$18	\$740.00
Indep. Claims	2	-3	0	x \$84	\$0
<u>Multiple Dependent Claim(s), if any</u>				+ \$280	\$0

**TOTAL FILING FEE \$ 740.00**

8.  An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.

9.  Please charge Deposit Account No. **09-0108** in the amount of \$ 740.00.

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. **09-0108**.

A duplicate copy of this Request is enclosed.

10.  New formal drawings are enclosed.

11.  The prior application is assigned of record to Incyte Pharmaceuticals, Inc., recorded on July 30, 1997, at reel 8951/frame 0923.

12.  A preliminary amendment is enclosed.

13.  Also enclosed: Return Postcard; Information Disclosure Statement (2 pp.); List of References Cited by Applicants (PTO-1449) (2 pp.); copies of references 20-22; and copy of International Search Report (5 pp.).

14.  The power of attorney of the prior application is to:

<b>Lucy J. Billings</b>	<b>Reg. No. 36,749</b>
<b>Michael C. Cerrone</b>	<b>Reg. No. 39,132</b>
<b>Diana Hamlet-Cox</b>	<b>Reg. No. 33,302</b>
<b>Richard C. Ekstrom</b>	<b>Reg. No. 37,027</b>
<b>Barrie D. Greene</b>	<b>Reg. No. 46,740</b>
<b>Matthew R. Kaser</b>	<b>Reg. No. 44,817</b>
<b>Lynn E. Murry</b>	<b>Reg. No. 42,918</b>
<b>Shirley A. Recipon</b>	<b>Reg. No. 47,016</b>
<b>Susan K. Sather</b>	<b>Reg. No. 44,316</b>
<b>Michelle M. Stempien</b>	<b>Reg. No. 41,327</b>
<b>David G. Streeter</b>	<b>Reg. No. 43,168</b>
<b>Stephen Todd</b>	<b>Reg. No. 47,139</b>
<b>Christopher Turner</b>	<b>Reg. No. 45,167</b>
<b>Peng Ben Wang</b>	<b>Reg. No. 41,420</b>

— The associate power of attorney in the prior application is to:

a.  A Revocation of Power of Attorney and Appointment of New Attorneys (2 pp.) is attached.

b.  Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. X Address all future correspondence to:

INCYTE GENOMICS, INC.  
PATENT DEPARTMENT  
3160 Porter Drive  
Palo Alto, California 94304  
Phone: (650) 855-0555, Fax: (650) 845-4166

Date: 4 January 2002

By: Diana Hamlet-Cox  
Diana Hamlet-Cox  
Reg. No. 33,302  
Direct Dial Telephone: (650) 845-4639

- Inventor(s)
- Assignee of complete interest
- Attorney or agent of record
- Filed under 37 CFR 1.34(a)

Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_.